



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: : U.S. Patent No. 5,451,233 (U.S.S.N. 08/208,972)

Issued: : September 19, 1995 Regulatory Approval Product: XIENCE™ V EECSS

Inventors : Paul G. Yock

For : Angioplasty Apparatus Facilitating Rapid Exchanges

DISCLOSURE SUBMISSION PURSUANT TO 37 CFR § 1.765

SUBMITTED VIA EXPRESS MAIL

Mail Stop: Hatch-Waxman PTE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Further to the Disclosure Submissions previously filed with the United States Patent and Trademark Office (“USPTO”) for this matter, Applicant formally submits herewith information and materials that may be relevant to a determination of entitlement to the extension sought pursuant to 35 U.S.C. § 156 for U.S. Patent No. 5,451,233 (“the ‘233 Patent”).

The information and materials submitted herewith were previously reviewed and discussed during an interview with Ms. Till on April 1, 2009. A summary of this interview is provided concurrently herewith. Particularly, various motions and a resulting order in Civil Action No. C-08-04962 DLJ in the Northern District of California were discussed, wherein it was noted that the Court has granted a stay of the current proceedings by Abbott Laboratories against Medtronic, Inc., “to permit the PTO to issue a determination on whether the [‘233 Patent] is eligible for extension.” The Court therefore has vacated all pretrial proceedings in this case, and asked the parties to notify the Court as to any material decisions of the PTO in its ongoing review of the extension eligibility issue. Also discussed was an article posted on the online

forum “Medical Device Link com;” which was deemed to be generally cumulative of the Citizen’s Petition previously filed with the FDA and considered by the USPTO.

Although not necessarily material or adverse to any such determination, the following information and materials are provided for completeness of the record and consideration pursuant to 37 C.F.R. § 1.765:

Appendix A: Medtronic, Inc. and Medtronic Vascular, Inc.’s (hereafter “Medtronic”) January 7, 2009 Answer to First Amended Complaint filed by Abbott Laboratories and Abbott Cardiovascular Systems, Inc) (hereafter “Abbott) in connection with C.A. No. C-08-04962 DLJ.

Appendix B: Medtronic’s January 7, 2009 Notice Of And Motion To Stay Proceedings Pending PTO Review of Patent Term Extension Application (hereafter “Motion to Stay”) in connection with C.A. No. C-08-04962 DLJ.

Appendix C: Abbott’s February 13, 2009 Opposition to Medtronic’s Motion to Stay in connection with C.A. No. C-08-04962 DLJ.

Appendix D: Medtronic’s February 20, 2009 Reply Brief In Support of the Motion to Stay in connection with C.A. No. C-08-04962 DLJ.

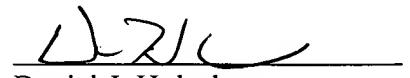
Appendix E: March 24, 2009 Order by the Honorable D. Lowell Jensen issuing Stay in connection with C.A. No. C-08-04962 DLJ to permit the PTO to issue a determination on whether the ‘233 Patent is eligible for an extension.

Appendix F: Article on the online forum “Medical Device Link” (available at <<http://devicelink.com/mx/issuestatus/08/10/PTE.html>>) by Doug Portnow, Annie M. Rogaski, and Mark D. Barish of the law firm Townsend and Townsend and Crew LLP.

Applicant authorizes the Commissioner to charge any fees and/or credit any overpayments associated with this submission to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 077843.0113.

Date: April 15, 2009

Respectfully submitted,


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